

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RUSSELL ALAN LATONA, }
Plaintiff, } Civil Action No. 07-1 Erie
v. }
OFFICER MATTHEW POLLACK, et al., }
Defendants. }

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on January 3, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 78], filed on January 8, 2010, recommended that the motion for summary judgment filed by Defendants Prison Health Services, Inc., Renee Wnek and Susan George [Doc. No. 66] be granted, and that the Plaintiff's motion for leave to file a "Fourth Amended Complaint" [Doc. No. 71] be denied as futile. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motions and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 25th day of January, 2010;

IT IS HEREBY ORDERED that the motion for summary judgment filed by Defendants Prison Health Services, Inc., Renee Wnek and Susan George [Doc. No. 66] is GRANTED and JUDGMENT is hereby entered in favor of Defendants Prison Health Services, Inc., Renee Wnek and Susan George, and against Plaintiff, Russell Alan Latona. IT IS FURTHER ORDERED that the Plaintiff's motion for leave to file a "Fourth Amended Complaint" [Doc. No. 71] is DENIED as futile.

The Report and Recommendation [Doc. No. 78] of Magistrate Judge Baxter, filed

on January 8, 2010, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge